

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)	
)	
Improving Public Safety Communications)	
in the 800 MHz Band)	WT Docket No. 02-55
)	
Consolidating the 900 MHz Industrial/Land)	
Transportation and Business Pool Channels)	

To the Commission:

**COMMENTS BY THE STATE OF FLORIDA
TO THE SUPPLEMENTAL COMMENTS**

1. The State of Florida, State Technology Office, Bureau of Radio Services (“Florida” or “the State”)¹, offers these comments to the Supplemental Comments of the Consensus Parties (Public Notice DA 03-19) in the above referenced matter. As a licensed user of public safety spectrum, and an agency with regulatory responsibility for other state and local public safety agencies within Florida, we have a direct interest in the outcome of this proceeding. Our comments are organized in the order as presented in the *Supplemental Comments*, and include a reference to page numbers therein. Again, we applaud the Commission for this major undertaking and understand that the challenges ahead will be considerable for both the Commission and the affected licensees. As we continue our participation throughout these proceedings, we appreciate the intent in which the Consensus Plan has been presented and hope that the CMRS interference experienced by Florida and others will be mitigated if not eliminated entirely within a defined period after a decision has been reached by the Commission. We see this Consensus Plan promoting an efficient process by which these proceedings can be completed.

2. (pp. 4-7 and Appendix A) Nextel is applauded for increasing their financial commitment from \$500 million to \$850 million, of which \$700 million is dedicated for public safety. We also recognized that Nextel used the high end of the cost range and assumed full system implementation for developing their total commitment. While our concern for insufficient funding has been somewhat relieved, we remain concerned that a “cap” on the funding may result in an incomplete realignment. We suggest any “cap,” perceived or otherwise, be explicitly removed in order to better assure that public safety agencies will not be financially burdened by costs associated with 800 MHz realignment.

¹ Previously the Bureau of Wireless Communications, the Bureau of Radio Services acts in similar capacity within the State Technology Office under the direction of the Florida’s Chief Information Office, Kimberly Bahrami.

Without a complete and exhaustive analysis of each public safety incumbent's 800 MHz system affected by spectrum realignment, funding inadequacies may not be evident until a significant fraction of the work has been completed. A funding shortage at that point would result in some incumbents relocated and others not, producing bottlenecks in the realignment process and potentially dangerous communications gaps between regions. Sharing between adjacent systems via interlocal agreements could be interrupted due to funding or scheduling limitations. We suggest that interlocal agreements become part of the realignment strategy to safeguard against creating such "relocation gaps".

3. (pp. 7-8) We suggest the escrow account funded by Nextel be established as an interest bearing account. Interest accrued should not minimize the \$850 million contribution by Nextel. Interest accrued should be understood as additional relocation funds available toward minimizing additional contributions by Nextel beyond the initial \$850 million in the event funding proves inadequate (see comment 2 above).

The separate corporate entity(ies) set up by Nextel should remain secure until all incumbents public safety licensees are relocated and reimbursed for their expenses associated with the spectrum realignment (i.e., remove Nextel's right to remove excess collateral from the Plan until the Plan is fully executed).

We are concerned as to what may happen in the event the relocation fund is exhausted prior to completion of Phase I and Phase II relocation, particularly with regard to the \$700 million identified for public safety? We are concerned that no funding contingency has been identified to support the completion of the realignment activities should the primary fund be depleted.

4. (pp. 9-14) Clearing the 806-809/851-854 MHz block (channels 1-120) to make room for current NPSPAC licensees has a direct impact on the State of Florida. The State law enforcement radio system is licensed for 20 contiguous channels (114-133) as well as the 19 offset (12.5 kHz) channels in between each of the primary channels. Since the lower seven of these channels (and their offsets) would have to be relocated in Phase I of the realignment plan, the concern arises as to how to preserve the entire capacity afforded by the State's 19 offset channels. Unless the State's entire block of 20 primary channels can be relocated as a contiguous group (thus preserving the capacity for 19 offset channels), then additional spectrum will be required to maintain our quality of service.
5. The State and various local public safety agencies are also licensed for one statewide channel (channel 96) in the 1-120 channel block that serves as a statewide public safety mutual aid channel approved by the Commission in 1985. It is not clear to us whether or not the non-cellular block (121-400) contains a statewide channel that can replace channel 96 for public safety in Florida.

6. Appendix C (Item I, B, 2) allows for new channels to have different channel spacing than current frequencies. While this will be necessary in many cases, we encourage the Commission to require that, to the fullest extent possible, the pattern of channel spacing remain the same after relocation. Maintaining the same channel relationships will minimize the necessity for system reconfigurations (e.g., combiner replacements and reconfigurations, and additional antennas). Preserving channel relationships will also tend to avoid the production of entirely new interference cases (e.g., intermodulation, receiver desense, transmitter noise, etc). This will help minimize the funding required for relocation by reducing the replacements and redesigns that would otherwise be necessary.
7. While the costs for extra towers may be reimbursed (along with microwave, leased lines, generators, shelters, real estate, and other associated costs), it will create additional costs for the affected public safety agency for additional ongoing maintenance after the relocation plan has been implemented. Appendix C (Item I, B, 4) addresses this, but limits costs to 2 years. Equipment has an inherent life expectancy that should be the basis for extending this 2-year limit, at least to the extent of remaining life expectancy for the affected public safety agency's system.

Maintaining the pattern of channel assignments for incumbent public safety licensees cleared out of the 806-809/851-854 MHz block will also promote the strategy described in the previous paragraph. However, channels cleared by Nextel will likely not provide the flexibility to maintain this pattern for relocated public safety incumbents if this spectrum is earmarked for such incumbents. Furthermore, there is no remaining "white space" within Florida on the 70 channels in the Public Safety Category in 47 CFR, Part 90.617 – particularly in densely populated areas where spectrum shortages already exist. Consequently, the Commission can expect:

- A. public safety agencies to apply for "white space" of the B/ILT Pool channels in the Guard band should the likely event channels cleared by Nextel in channels 121-400 prove insufficient or,
- B. possible funding challenges caused by adverse impacts due to inconsistent patterns of channel assignments.

In addition to the "full funding" caveat, "adequate spectrum" should be a prerequisite for Phase I relocations within a Region. Although Florida enjoys a lengthy coastline with the Atlantic Ocean and Gulf of Mexico, Florida would still be subject to coordination with Alabama and Georgia to ensure "adequate spectrum." States like Tennessee and Missouri face greater challenges for adequate spectrum, as does the Northeast United States.

8. (p. 15) Compensating reasonable expenses of the Relocation Coordination Committee (RCC) and its members is certainly supported. However, this increases our concern over the adequacy of the Relocation Fund to reimburse system relocation costs for

public safety incumbent licensees.

9. (pp. 16-17) Implementation schedules may be negatively impacted if incumbent licensees are required to relocate to realigned channels while in the process of construction of their primary system. This may cause conflicts with legislatively mandated funding constraints. The Commission is urged to act favorably on such licensees that request an extension of implementation schedules to accommodate their post-realignment directed by the Commission, particularly when supported by the RCC. This will further avoid the unnecessary costs and inconvenience of relocating recently constructed facilities.
10. (pp. 18-19, Appendix C) The State of Florida supports the provision for confidentiality of information and limited use by the RCC and its constituent committees, or any participant thereto. The relationship we enjoy with our contractor carries with it an understanding of confidentiality in order for us to carry out the State's responsibilities for the statewide law enforcement radio system. Furthermore, limiting this information under an FCC-mandated confidentiality clause will maintain our efforts for domestic security purposes.
11. (pp. 20-21) Once the RCC certifies the Phase I clearing plans for each NPSPAC Region, it will, in effect, require a "freeze" on construction; unless such plans forecast future construction to coincide with implementation of said plans. This forecast should account for up to 9-months (identified as a negotiation period) or other dynamic schedule events so as to avoid a potential "freeze" in any given NPSPAC Region. Any "freeze" created should be automatic grounds for granting an extension of implementation schedules for affected public safety incumbent licensees.
12. (pp. 22 & 30) "Baseball-type arbitration" raises concern with us, though our concerns are somewhat quelled by footnote 36. The State of Florida has a contractual obligation to implement a statewide law enforcement radio communications system. Any potential compromise to this contract will have to be resolved satisfactorily between the State and its contractor. To allow compromises outside our control (i.e., "baseball-type" arbitration) invites potential legal challenges.
13. (p. 22) Compensating reasonable expenses of the arbitration panel is certainly supported. Again, this increases our concern over the adequacy of the Relocation Fund to reimburse system relocation costs for public safety incumbent licensees.
14. (pp. 28-29) Compensating reasonable expenses of the Phase II Committee, RPC, and Alternate Mediation Panel is certainly supported. Again, this increases our concern over the adequacy of the Relocation Fund to reimburse system relocation costs for public safety incumbent licensees.
15. (p. 29) Applications prepared and filed by the RCC on behalf of the affected licensees appears plausible on the surface. However, the State (like others implementing systems) are continually preparing and submitting license applications, modifications,

Antenna Structure Registrations and other forms to reflect changes as the system is optimized throughout its implementation. Even after implementation, improvements are made to systems that require appropriate forms to be prepared and submitted. It will be imperative for the RCC to coordinate their activities with the timing and extent of this dynamic process. Otherwise, a flood of conflicting or inaccurate applications may further aggravate the entire process.

Any restrictions imposed which prevents public safety agencies from keeping their licenses and other filings up to date will effectively create a “freeze” on public safety applications until the process initiated by the RCC is finished. During this “freeze,” public safety agencies will have to either delay their implementation schedules or risk non-compliance with requirements of their existing authorizations or of the realignment program.

16. (pp. 39-44) We agree with the definition of interference in Appendix F, §1.2.1, Voice Systems. The interference protection standards proposed in the Consensus Plan are as good or better than those of the current Region 9 Plan for Public Safety Radio Communications.
17. (Appendix A) As we already mentioned in our item 6 above, any required additional towers would impact relocation costs. The costs presented in Appendix A do not account for this. Rather than attempt to estimate costs for an unknown, we reiterate item 2 (removing the “cap” on the Relocation Fund) and item 7 (extending the 2-year limit on reimbursing operating costs).
18. (p. C-4) We support all application filing fees waived for all systems relocated under this Order. We recommend that the term “application filing fees” should be clarified to include FCC filing fees and frequency coordination fees.
19. (p. C-6) We support the Commission in strongly urging local governments to expeditiously treat zoning applications resulting from activities of the realignment process. We can only hope local governments processing these zoning applications appreciate the atmosphere from which these applications come and will cooperate as fully as possible.
20. (p. C-22 & C-31) We support fines levied by the FCC to be deposited in the Relocation Fund. However, such deposits should not reduce the \$850 million contribution expected from Nextel. Instead, we suggest it create additional funding in the event \$850 million proves insufficient. Any excess so created should be distributed in the same ratio created by the \$700/\$150 million distribution. Upon full compensation for all reimbursable expenses, Nextel’s \$850 million contribution can then be offset to the extent such deposits allow.
21. (p. C-23 & C-31) Public Safety agencies operate on limited budgets that are legislatively established in advance. These limited budgets already challenge these agencies to carry out their obligations. Reimbursement identified in Appendix C

implies monies will be available by these agencies up front to support their relocation. We suggest that the Commission adopt a method of payment that provides monies from the Relocation Fund up front to avoid financial burdens to these agencies.

Additionally, each public safety agency may have purchasing and expenditure rules that need to be considered. The RCC should be prepared to address this point with each public safety agency and accommodate payments/reimbursements from the Relocation Fund accordingly.

22. (no pg. ref.) Missing throughout the Consensus Plan is any reference to workforce issues. Carrying out the Consensus Plan in phases certainly spreads out relocation activities nationwide. However, it will still be an enormous task from commencement to its completion 42 months after a Report and Order. With regard to the 42-month window, we present the following questions:

A. Will manufacturers of 800 MHz radios, combiners, multi-couplers, antennas, lines, etc., be capable of supplying the extra volume of new equipment in cases where existing equipment cannot be used for the relocation?

B. Will the considerable managerial, engineering, and technician workforce be available to accommodate the enormous demands of relocation?

C. Will public safety agencies already burdened by workforce and budgetary reductions be able to commit to the huge additional workload imposed by a scheduled relocation?

The above four questions are not intended to undermine the importance of these proceedings or reduce our commitment to resolve these issues. However, answers to these and other similar questions can have a considerable impact on the 42-month schedule of the Consensus Plan as well as the specific timelines within it.

23. For any additional information concerning these comments, contact Mr. Kourosh Bastani, P.E., Chief of the Bureau of Radio Services of Florida's State Technology Office at (407) 977-6592, e-mail kourosh.bastani@myflorida.com.

Respectfully submitted,

Kourosh Bastani, P.E., Chief
Bureau of Radio Services
State Technology Office
State of Florida

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CWW&RBF:FLORIDA Comments to Consensus Plan in WT 02-55.doc

cc: Joint Task Force Board of Directors
Joint Task Force Agency Heads
Mark Pallans, Region-9 Chairman